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**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

JUL 10 1998

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)	
)	
Amendment of Parts 2 and 15 of the)	ET Docket 98-76
Commission's Rules to Further Ensure that)	RM-9022
Scanning Receivers Do Not Receive)	
Cellular Radio Signals)	

**COMMENTS OF THE
CONSUMER ELECTRONICS MANUFACTURERS ASSOCIATION**

I. INTRODUCTION

The Consumer Electronics Manufacturers Association (CEMA) represents manufacturers of communications products including telephones, home entertainment products such as televisions, stereos, and video recorders, and home information equipment such as personal computers and multimedia devices, as well as many other consumer electronics products. Our members represent roughly 250,000 U.S. manufacturing jobs and about \$64 billion in annual sales.

As the trade association for the consumer electronics industry, our membership includes both manufacturers of cellular telephones and radio scanning devices. Thus, CEMA is critically interested in helping find answers to the issues discussed in this proceeding.

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II. SCANNING RECEIVER STANDARDS TO PREVENT RECEPTION OF CELLULAR SIGNALS

CEMA believes that the proposed 38 dB standard for image frequency rejection is the appropriate step to take at this time. Given 1) that the proposal is based on at least one company's research into effective image frequency rejection balanced with achievability at reasonable cost and 2) in the absence of technical data suggesting it is an inappropriate standard, it would be proper for the Commission to set 38 dB as the initial standard. If, however, the Commission desires further information, the association is willing at the Commission's request to undertake the task of testing radio scanner image frequency rejection.

CEMA also supports the Commission's proposal that compliance with the 38 dB standard be determined with a signal-to-noise (S/N) ratio of 12 dB. CEMA does not now believe that this compliance test will be overly burdensome on any one product line within the various radio scanner products or on any one manufacturer.

CEMA, however, believes the Commission's proposal to require that scanning receivers not be able to receive a signal level of 5 mV/m or less in the cellular frequency bands for any tunable frequency is unrealistic. This is not a workable requirement for manufacturers and will cause significant increases in production costs, thus significantly increasing the price of the product to consumers.

III. PREVENTION OF SCANNER MODIFICATIONS

While CEMA is concerned that the Commission's proposals to prevent scanner modifications will deprive consumers of the ability to seek product repair and instead require them to replace their equipment when a radio scanner is not functioning properly,

CEMA understands the need for definitive steps to stem the tide of unscrupulous individuals who purchase legal products and through aftermarket (i.e. after initial retail sale to the consumer) technical modifications turn them into illegal eavesdropping equipment. Although there will be a new market dynamic caused by these new rules, CEMA sees no other reasonable alternative available to help guard the privacy of cellular telephone conversation. Thus, CEMA does not oppose the proposal to require that scanning receivers be designed so that tuning and control circuitry is inaccessible and that the design be such that any attempt to modify the scanning receiver to receive cellular Service transmissions will likely render it inoperable.

Having been a part of public debate before Congress on the issue of radio scanner reception of cellular frequencies, CEMA is also well aware of unscrupulous entities and organizations which have made a business of aftermarket modification of radio scanner receivers to enable the reception and “display” of cellular conversations. While they claimed that their activities were not illegal under the law and then current FCC rules, it is plain that Congress did not intend for such activity to be legal. Thus amendment of Section 15.121 to specifically add language stating that modification of scanning receivers on a substantial scale to receive cellular frequencies constitutes the manufacture of such equipment (and is thus a violation of Section 302(d) of the Communications Act) is an appropriate and necessary step.

IV. EQUIPMENT AUTHORIZATION APPLICATIONS

With respect to the suggestion by Uniden in their request that all applications for equipment authorization for scanning receivers be automatically afforded confidentiality protection, CEMA understands the basis for Uniden’s request in this area: if it is the

Commission's intention to stop modification of radio scanners to receive cellular signals, it seems logical to deny unscrupulous individuals easy access to the designs of those radio scanners they seek to modify.

V. SCANNING RECEIVER DEFINITION

While it is very important for the Commission to do its best to close any real loopholes which exist in the current regulations, it is also equally important that the Commission not make changes to the definition of scanning receiver which might inadvertently affect other radio products. Careful consideration must be given to any proposed amendment thereto.

VI. KITS

CEMA is not certain how effective a prohibition on the importation and manufacture of scanning receiver and frequency converter kits that are capable of receiving and decoding signals from the cellular Service frequency bands will really be. It seems to CEMA that, due to the nature of kits, if the kits themselves are not capable of receiving and decoding cellular signals that they would be potentially modifiable to do so. Thus, it seems to CEMA that if it is the intent of Congress and the Commission to limit exposure of consumers using cellular telephones to illicit technical eavesdropping, it is necessary for the Commission to ensure to the greatest extent possible that the end products of these kits will be legal devices in compliance with the Commission's rules.

VII. EFFECTIVE DATE

The suggested effective date of 90 days from publication in the Federal Register of any rules which are resultant from this proceeding is far from realistic for manufacturers. To ensure that market inequities do not occur from this proceeding, it will

be necessary to provide manufacturers significantly more lead time to consider, make and implement the necessary design changes suggested herein. CEMA suggests that although the electronics industry usually operates on an 18 month product design cycle, the Commission should provide manufacturers a minimum of twelve months from date of publication to comply.

VIII. CONCLUSION

In general, CEMA supports the Commission's goal in this proceeding to help reduce the likelihood of radio scanner reception and of cellular signals. CEMA commends the Commission for working with the manufacturing community in this proceeding toward increased protection of consumer privacy over cellular frequencies. Nonetheless, CEMA believes that both the proposed direct pick-up provisions and the effective date should be reconsidered.

Respectfully submitted,

CONSUMER ELECTRONICS
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July 10, 1998